



Insurance Department

State of Utah

GARY R. HERBERT

Governor

GREG BELL

Lieutenant Governor

TODD E. KISER

Acting Commissioner

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: December 9, 2013 **Time:** 9:00 AM **Place:** East Bldg, **Spruce** Room

MEMBERS

COMMISSION MEMBERS

xChair, Kirk Smith, *Weber Cnty*

xMatt Sager, *Maricopa Cnty, AZ*

Co-Chair, Larry Blake, *Washington Cnty*

Sylvia Andersen, *Public Member*

X Jeff Wiener, *Salt Lake Cnty*

DEPARTMENT STAFF

xPerri Babalis, *AG Counsel*

xBrett Barratt, *Deputy Comm.*

xMark Kleinfeld, *ALJ*

xSuzette xGreen-Wright, *MC Dir.*

xTammy Greening, *Examiner*

xJilene Whitby, *PIO Recorder*

xTodd Kiser, *Commissioner*

xRandy Overstreet, *Producer Lic*

PUBLIC

Pete Stevens

Russ Nance

Hugh Garner

Scott S???

Roy Poll

Lincoln Scoffield

David Moor

Carol Yamamoto

James Seaman

MINUTES

General Session: (Open to the Public)

- **Welcome** by Kirk Smith, Chair, at 9:20am. (Began late as result of snowstorm.)
- **Adopt Minutes of Previous Meeting**
Matt made a **motion** to adopt the minutes, seconded by Jeff, vote was unanimous.
- **Reports**
 - **Concur with Licensee Report for November** / Suzette
Matt made a **motion** to concur with licensing report, seconded by Jeff, vote was unanimous.
 - **Concur with Complaint & Enforcement Report** / Suzette
 - Suzette noted that the green bars on the first page provided more in-depth information about alleged violations as request last month.
 - It was noted that the "Failure to File Annual Report" violations listed on the "Open Investigations" report were a result of failure to file on April 30, 2013. Those who ignored the courtesy notice were fined. They were given 10 days to respond. If they don't, they go to enforcement. These will be moved from I-case report to the E-case report if there no response to her courtesy notice. Delay is due to process in reviewing annual reports.
 - Tammy said 62820 and 63013 should show an x under 31A-23a-406. Suzette said the blue sections are to acknowledge the Commission's request for more information about complaints Department is receiving.
 - Suzette noted that once an e-case is closed it goes to the "Closed Investigation Summery Report." The e-case number will be placed in the "Reason Closed" column for tracking purposes.
 - Tammy on two consumer calls she received last month.
 - Jeff made a **motion** to concur with the report, seconded by Matt and vote was unanimous.
 - **Request for Dual Licensee Expedited Request:** None

- **Request for Attorney Exemption: Kyle C. Dart**
Randy reported that Mr. Dart had not yet received a Title license so the Department denied the exemption. Mr. Dart withdrew his application and will re-apply later.
- **Administrative Proceedings Action / ALJ**
 - **Stipulation & Order: Williams Title Guaranty & Escrow Agency, Ltd, Inc.**
 - Mark said this is a Colorado corporation. This fact was not referenced in the application. License was denied because application did not show contracted local representative. Williams did 461 closing without a license. They agreed to the forfeiture. License voluntarily surrendered.
 - Jeff thought the fine was too low considering the number of closings. Tammy said there was no harm to the consumer, title insurance was not in question and escrow fees were paid. Licensing requirements are clear. They failed to follow law and made money without a valid license.
 - At 10AM Jeff made a **motion** to go into Executive Session to discuss the enforcement penalty based on character and conduct of Williams Title. Matt seconded the motion and the vote was unanimous.
 - Sylvia arrived at 10:09.
 - At 10:20AM Matt made a **motion** to return to General Session, Jeff seconded the motion and the vote was unanimous.
 - Matt made a **motion** to not concur with the Administrative Forfeiture and recommend that \$41,000 not be suspended so the total amount of Forfeiture would be \$46,000. Jeff seconded the motion and the vote was unanimous, 0 to 4 in favor of the motion. Perri suggested a paper be signed when there is non-concurrence.
 - **Request for a Hearing:** None
 - **Order to Show Cause:** None
 - **Informal Adjudicative Proceeding & Order:** None
 - **Formal Adjudicative Proceeding & Prehearing Conference:** None
- **Old Business**
 - **Discuss Proposed Rule Amendments to [R592-2-7\(2\)](#) / Perri**
 - The revised rule was provided to attendees and the Commission. Changes deal with stipulation of facts.
 - Questions to be resolved: “What is the process if there is non-concurrence?” “What happens if the respondent does not concur with the new stipulation?”
 - Tammy noted that lapsed license is not violation. It is what happens when the license is lapsed that could be a violation. Anything that is a question-of-fact should not be on the table in the rule. Licensing issues should not be in the table. Tammy suggested wording stating that where there is no question-of-fact the table could be used. Sylvia thought the table might deter licensees from violating the law.
 - Perri said the Commission will not see informal actions, as noted in the rule. The Real Estate Commission participates in all hearings.
 - Tammy said the table was created to specify those violations that could be handled by informal actions.
 - Jeff asked to see and compare Real Estate Commission’s rule.
 - An attendee suggested there be a return of service notification.
 - Perri said that only those violations involving a Cease and Desist Order would require a formal hearing. All others would be handled by an informal hearing.
 - Matt will amend the rule for next month.
 - Roy thought most fine amounts should be reduced. Fines should be commensurate with mitigating circumstances. Sylvia said that the person being fined is given opportunity to provide mitigating circumstances for possible reduced fine. Suzette

said that many of the fee amounts in the table were less than fine amounts in other lines of business.

- **Motion** by Matt to table the rule, seconded by Sylvia, vote was unanimous.
- **Update: SIRCON Sending Renewal Notices to Both Insurers & Agencies** / Brett Randy said the Department is still waiting for this to happen. It is in the testing phase.
- **New Prohibited Escrow Settlement Closing Transactions Rule**
Jeff, James and David will get together in January to write this rule then present to the Commission in February.
- **New Business**
 - **J. Spencer Ball, Reason for Non-Concurrence** / Randy Overstreet
 - After the last meeting the question arose: “What happens if the Commission does not concur with the Commissioner in the exemption process?”
 - Randy checked with the Department’s AG representative, Gale Lemon. The Insurance Code allows for a denial when there is a lack of experience.
 - Gale asked what the Commission’s basis was for denial. Rule R592-8 requires that an applicant have three years’ experience, including in real estate, and have a title license. Mr. Ball has 25 years’ experience. Commission members were provided with a copy of the letter from Mr. Ball in consideration of his experience.
 - Jeff made a **motion**, based on his experience only, to approve the exemption, Sylvia seconded it and the motion was approved.
 - Randy suggested the Commission provide language in Rule R592-8-5 if there is a disagreement between the Commission and the Commissioner, as in the case of Mr. Ball. Randy will provide suggested language. Perri said additional changes needed to be made to R592-8-5(6)(b) in the “agency review” wording. Suggested the Commission also include character requirements to this section, especially since they have authority to consider character in regards to licensing.
 - Put on agenda for next month.
- **Other Business**
 - Pete noted that there were 10,074 real estate licenses. Tammy will provide the number of title producer licenses for the next meeting.
 - Brett reminded the Commission of Legislative Rules meeting on Monday to report on our tardiness in filing rule changes required by the 2013 Legislature. Changes were filed 11-25-2013.

Executive Session (*Closed to Public*)

General Session: (*Open to the Public*)

- **Adjourn:** Matt made a **motion** to adjourn at 11:50am, seconded by Jeff.
- **Next Meeting:** January 13, 2014, Copper Room

2013 & 2014 Meeting Schedule

(*2nd Monday except in October*)

Jan 13	Feb 10	Mar 10	Apr 14	May 12	Jun 9
Jul 14	Aug 11	Sept 8	Oct 20	Nov 10	Dec 8